

NOV 13 2006

FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

2006 NOV 13 P 2: 52

MUR 5738  
CHARLES A. GONZALEZ  
CONGRESSIONAL CAMPAIGN

CASE CLOSURE UNDER THE  
ENFORCEMENT PRIORITY SYSTEM

**SENSITIVE**

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal. The

Commission has determined that pursuing low-rated matters compared to other higher rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases.

The Office of General Counsel scored MUR 5738 as a low-rated matter. In this case, the allegations concerned an advertisement in the San Antonio Express-News, which featured a dinner reception hosted by Congressman Charles Gonzalez on behalf of the West San Antonio Chamber of Commerce. The complainant alleges that the West San Antonio Chamber of Commerce, who sponsored the "State of the District" dinner, made a prohibited in-kind contribution to the Charles A. Gonzalez Congressional Campaign ("Committee"). Moreover, the complainant alleges that the facility that was the venue for the event (i.e., the Holiday Inn) and the newspaper that advertised the event also made prohibited contributions to the Committee. Additionally, the complainant claims that the advertisement lacked an appropriate disclaimer.

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1 The Committee responded by noting that the newspaper advertisement featuring the  
2 dinner ran after the primary election and seven months before the general election and,  
3 therefore, could not be considered an electioneering communication. Moreover, the  
4 Committee asserted that the newspaper advertisement did not constitute a coordinated  
5 communication because it did not expressly advocate for the election of a federal candidate,  
6 was not a reproduction of campaign materials, and was not published within ninety days of  
7 the election.

8 The allegations concerning the newspaper advertisement and the event venue host  
9 appear to be speculative and have been specifically refuted by the respondents. There is no  
10 support in the complaint, outside of the supplied advertisement, that the West San Antonio  
11 Chamber of Commerce made an in-kind prohibited contribution to the Committee. The  
12 complaint only points to the single advertisement that ran on April 8, 2006. Therefore, the  
13 benefit to the Committee, if any, would have been nominal if the advertisement were found  
14 to have violated the Federal Election Campaign Act. Thus, in reviewing the merits of MUR  
15 5738 in furtherance of the Commission's priorities and resources, relative to other matters  
16 pending on the Enforcement docket, the Office of General Counsel believes that the  
17 Commission should exercise its prosecutorial discretion and dismiss the matter. *See Heckler*  
18 *v. Chaney*, 470 U.S. 821 (1985).

19 **RECOMMENDATION**

20 The Office of General Counsel recommends that the Commission dismiss MUR  
21 5738, close the file effective two weeks from the date of the Commission vote, and approve  
22 the appropriate letters. Closing the case as of this date will allow CELA and General Law  
23 and Advice the necessary time to prepare the closing letters and the case file for the public  
24 record.

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James A. Kahl  
Deputy General Counsel

11/2/04  
Date

BY:

Gregory R. Baker  
Special Counsel  
Complaints Examination  
& Legal Administration

Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination  
& Legal Administration

Attachment:  
Narrative in MUR 5738

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5 **MUR 5738**

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7 **Complainant:** Michael Idrogo

8  
9 **Respondents:** Charles A. Gonzalez Congressional Campaign and  
10 Irene S. Baldridge, as Treasurer  
11 Charles A. Gonzalez  
12 West San Antonio Chamber of Commerce  
13 Tom Frost, III  
14 Hearst Newspaper Partnership, LP aka San Antonio Express-News  
15 Intercontinental Hotels Group Resources, Inc.  
16  
17

18 **Allegations:** The complaint arose as a result of an advertisement in the San Antonio  
19 Express-News, which featured a dinner reception hosted by Congressman Charles  
20 Gonzalez on behalf of the West San Antonio Chamber of Commerce. The complainant  
21 alleges that the West San Antonio Chamber of Commerce, who sponsored the "State of  
22 the District" dinner made a prohibited in-kind contribution to the Charles A. Gonzalez  
23 Congressional Campaign ("Committee"). Additionally, the complainant alleges that the  
24 facility that was the venue for the event and the newspaper that advertised the event made  
25 prohibited contributions to the Committee. The complainant also appears to claim that  
26 the advertisement lacked an appropriate disclaimer.  
27

28 **Responses:** The Committee responded by noting that there was no evidence of a  
29 coordinated communication or that the advertisement was in connection with any  
30 election. In fact, the Committee noted that the advertisement was published in a  
31 newspaper seven months before the general election and, therefore, could not be  
32 considered an electioneering communication. Moreover, the advertisement did not  
33 include campaign material or expressly advocate for the election of a federal candidate.  
34

35 **General Counsel's Note:** A supplement to the complaint was filed on July 24, 2006,  
36 which calls on various law enforcement agencies to prosecute Charles Gonzalez and  
37 other democrats who allegedly instituted a smear campaign against the complainant in  
38 retaliation for filing the complaint in this matter.  
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40 **Date complaint filed:** May 1, 2006

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42 **Date amendment filed:** July 24, 2006

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44 **Responses filed:** May 18, 2006, May 25, 2006, May 30, 2006, June 26, 2006 and  
45 August 9, 2006

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